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No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

IN THE MATTER OF OWEN W. CRUMPACKER

OWEN W. CRUMPACKER, *Appellant,*

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, *Appellee*

On Appeal From a Judgment Entered By The Indiana Supreme Court in an Original Action in Said Court Convicting Appellant of Indirect Criminal Contempt and Sentencing Him to Serve a Prison Term in the Department of Correction.

JURISDICTIONAL STATEMENT

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JURISDICTIONAL STATEMENT

I

QUESTIONS PRESENTED BY THE APPEAL

On April 4, 1984, appellant, a 72-year old lawyer residing in Hammond, Lake County, Indiana, was convicted and sentenced to prison for indirect criminal contempt by the Indiana Supreme Court sitting in Indianapolis, Marion County, Indiana, in an original action instituted and prosecuted by the Supreme Court of Indiana.* (n. 1 infra)

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*n. 1: Saul I. Ruman, a Hammond, Indiana, attorney, filed a complaint under Sec. 10, A & D Rule 23, on September 25, 1973. He petitioned for a review of the Hearing Officer's Findings, Conclusions of Law, and Recommendations filed on November 9, 1976, all of which were in appellant's favor. The State of Indiana was not a party to the proceedings, but is being served with a copy of the Jurisdictional Statement because of the Constitutional issues presented. The Indiana Supreme Court financed the proceedings in their entirety and acted by and through the Executive Secretary of the Indiana Supreme Court Disciplinary Commission, which is appointed by the Indiana Supreme Court.

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The questions presented on appeal are the following:

1. Whether the Provisions of the IV, V, VI and XIV Amendments to the Constitution of the United States bar the Indiana Supreme Court from instituting Criminal Proceedings, Prosecuting Them, and Convicting him, a private citizen, of the Crime of Indirect Criminal Contempt.

2. Whether the procedures adopted by the Indiana Supreme Court in Seizing a Citizen of Hammond, Lake County, Indiana, and Trying and Convicting Him in Indianapolis, Marion County, Indiana, On The Same Day (April 4, 1984) pursuant to a Bench Warrant issued in Indianapolis on November 16, 1983, are Void as Constituting a Deprivation of the Citizen's Rights to Procedural Due Process and Equal Protection of the Laws as guaranteed By

The V and XIV Amendments To The United States Constitution.

3. Whether the Indiana Supreme Court has Jurisdiction Under The United States and Indiana Constitutions and Statutes to Charge and Try A Citizen in Indianapolis, Marion County, Indiana, for Crimes Allegedly Committed in Hammond, Lake County, Indiana.

4. Whether a 27-page Disciplinary Action, Filed With The Clerk of the Indiana Supreme Court on November 29, 1978, Without Notice And/Or Hearing, Purporting To Permanently Disbar a Lawyer is Void as Violative of the Procedural Due Process Clauses of the United States and Indiana Constitutions.

5. Whether the Void Character of The Disciplinary Action May Be Urged as Defense Under the Due Process and

Equal Protection Clauses of the United States and Indiana Constitutions in An Original Action Filed and Prosecuted by the Indiana Supreme Court for the Purpose of Convicting a Citizen of Willful and Intentional Violation of the Disciplinary Action.

6. Whether The Continued And Unrelenting Prosecution of a Lawyer Over a Period of Twelve (12) Years Constitutes a Violation of a Citizen's Right To Protection Against Cruel and Unusual Punishment Guaranteed By The VIII Amendment to the United States Constitution.

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OPINIONS BELOW

These proceedings grow out of a Complaint filed on September 25, 1973, by Saul I. Ruman, a Hammond, Indiana, attorney. (See Note 1, page ii, supra.) Formal charges were filed below on September 17, 1974. After a 31-day trial and on November 9, 1976, the Hearing Officer filed Findings of Fact, Conclusions of Law, and Recommendations in appellant's favor. (App., A-85 to A-99) Over two years later, on November 29, 1978, and without notice or hearing, a 27-page Disciplinary Action, purporting to permanently disbar appellant as a lawyer, was filed in the Clerk's Office at Indianapolis. In the Matter of Owen W. Crumpacker, Original Cause No. 974 S 187, 269 Ind.

630; 383 NE2d 36; cert. denied 100 S.Ct. 481; 444 US 979; 62 L.Ed.2d 406. On January 23, 1981, the Disciplinary Commission filed its first Verified Information for Contempt and Petition for Order to Show Cause containing twenty-nine (29) counts of alleged criminal misconduct consisting of incidents of the alleged practice of law in willful violation of the Disciplinary Action filed on November 29, 1978. Followig a trial at Indianapolis and on January 27, 1982, the Indiana Supreme Court adopted a decision, ten pages in length, under the caption: "Contempt Proceeding ." Appellant was found guilty of both direct and indirect criminal contempt and sentenced to serve 90 days in the Department of Correction on each finding, the sentences to run concurrently. The

decision was filed, officially, on February 11, 1982, and published in the reports. In the Matter of Owen W. Crumpacker, Cause No. 974 S 187, ___ Ind.___; 431 NE2d 91 (1982); appeal dismissed for want of a substantial federal question, October 5, 1982, No. 82-5066, 101 S.Ct. 25.

A second Verified Information for Contempt and Petition for Order to Show Cause, consisting of six (6) counts was filed on July 25, 1983. A hearing was held before the Supreme Court of Indiana, sitting en banc, on November 15, 1983, and witnesses heard and documents introduced in the absence of the appellant. The Supreme Court of Indiana took the decision under advisement and ordered the issuance of a bench warrant

for appellant's arrest (App. A-53 through A-57). On April 4, 1984, appellant was taken in custody in Hammond, Indiana, driven to Indianapolis, where he was tried, convicted and sentenced to serve thirty (30) days in the Department of Correction. The proceedings at the hearing, including the findings and sentence, are set out in the Appendix at A-1 through A-49. The final decision and judgment are set out in the Appendix at A-63 through A-64, followed by the order of commitment at A-66 through A-70. The Indiana Supreme Court, on April 4, 1984, scheduled appellant's further appearance for May 21, 1984. (App. A71-A72) Because of scheduled surgery on appellant's eyes (macular degeneration and cataracts), the further hearing has been continued to be re-scheduled.

V

CONCISE STATEMENT OF THE GROUNDS ON WHICH THE JURISIDCTION OF THE COURT IS INVOKED

(i) The Indiana Supreme Court, acting by and through its Disciplinary Commission, filed a second Verified Information for Contempt and Petition for Order to Show Cause on July 25, 1983. A Rule to Show Cause was issued, ex parte, over the signature of the Chief Justice of the Indiana Supreme court, Hon. Richard M. Givan, on August 15, 1983. Appellant served and filed his verified motion to quash and dismiss for lack of jursidiction. The case was heard on the merits in appellant's absence on November 15, 1983, and an arrest warrant issued. Appellant was arrested, brought before the Supreme

Court of Indiana at Indianapolis, tried for failing to appear on November 15, 1983, and convicted and sentenced on the same day, to-wit: April 4, 1984.

(ii) The finding and judgment sought to be reviewed in this appeal were entered on April 4, 1984. The Notice of Appeal was filed with the Clerk of the Indiana Supreme Court on April 12, 1984. (A73-A74) An amended Notice of Appeal was served and filed on May 30, 1984. (A81-A84) The time for docketing the appeal was extended to and including September 1, 1984, by an order entered by Mr. Justice Stevens on August 13, 1984. (A100)

(iii) Appellant alleges that this Court has jurisdiction to hear and determine the appeal under 28 USC §1257(b) and the Constitution of the United States. Appellant urges that the procedures adopted by the Indiana

Supreme Court are violative of his constitutional rights under Amendments IV, V, VI, VIII and XIV of the United States Constitution. See S. Edward Bloom v. State of Illinois (1968) 391 U.S. 194, 20 L.Ed.522, 88 S.Ct. 1477.

VI

CONSTITUTIONAL PROVISIONS, STATUTES, AND COURT RULES INVOLVED

A. Pertinent Provisions of The Bill of Rights of The United States Constitution

AMENDMENT IV--SEARCHES AND SEIZURES. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S.C.A., Const., p. 361.)

AMENDMENT V--CAPTIAL CRIMES; DOUBLE JEOPARDY; SELF-INCRIMINATION; DUE PROCESS; JUST COMPENSATION FOR PROPERTY--No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, "nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." (U.S.C. Const.)

AMENDMENT VI--JURY TRIAL FOR CRIMES, AND PROCEDURAL RIGHTS--In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. (U.S.C.A., Const.)

AMENDMENT VIII--EXCESSIVE BAIL, FINES, PUNISHMENTS--Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (U.S.C.A., Const.)

AMENDMENT XIV--CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT--Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. (U.S.C.A., Const.)

B. Federal Statutes and Rules

18 U.S.C. §1964(a)(c): CIVIL REMEDIES--

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution of reorganization of any enterprise, making due provision for the rights of innocent persons.

* * * * *

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district Court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

18 U.S.C. Section 245. FEDERALLY PROTECTED ACTIVITIES.

* * * * *

(b) Whoever, whether or not acting under color of law, by force or threat

of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with --

(1) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from --

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting or acting as a poll watcher, or any legally authorized election election official, in any primary, special, or general election;

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States.

NOTE; 42 U.S.C. Sect.1983; 42 U.S.C. Sect.1985; 42 U.S.C. Sect.1988. Pertinent Provisions are quoted in the Appendix fIled under separate cover in support of the Jurisdictional Statement. (See App. pp. A109-A112.)

C. Applicable Provisions of The Indiana Constitution

ARTICLE 1, BILL OF RIGHTS, SECTION 11 -- Unreasonable search or seizures.-- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure, shall not be violated; and no warrant sh-ll issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized. (Burns Ind. Stat. Ann. Code

Ed., Const., p. 10)

ARTICLE 1, BILL OF RIGHTS, SECTION 12--COURTS OPEN--DUE COURSE OF LAW--ADMINISTRATION OF JUSTICE. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay. (Burns Ind. Stat. Ann. Code Ed., Const., p. 21.)

ARTICLE 1, BILL OF RIGHTS, SECTION 13--RIGHTS OF ACCUSED. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. (Burns Ind. Stat. Ann. Code Ed., Const., p. 36.)

ARTICLE 1, BILL OF RIGHTS, SECTION 14--FORMER JEOPARDY--SELF-INCRIMINATION. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself. (Burns Ind. Stat. Ann. Code Ed., Const., p. 55.)

ARTICLE 1, BILL OF RIGHTS, SECTION 16--EXCESSIVE BAIL, PUNISHMENT, AND PENALTIES. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties

shall be proportioned to the nature of the offense. (Burns Ind., Stat. Ann. Code Ed., Const., p. 64.)

ARTICLE 1, BILL OF RIGHTS SECTION 17--BAILABLE OFFENSES. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident, or the presumption strong. (Burns Ind. Stat. Ann. Code Ed., Const., p. 68.)

ARTICLE 7, SECTION 7, JUDICIAL--JURISDICTION OF SUPREME COURT. The Supreme Court shall have no original jurisidiction except in admission to the practice of law; discipline or disbarment of those admitted; the unauthorized practice of law; supervision of the exercise of jurisdiction by the other courts of the State; and issuance of writs necessary or appropriate in aid of its juridiction.

ARTICLE 7, SECTION 18, CRIMINAL PROSECUTIONS. All criminal prosecutions shall be carried on in the name and by the authority of the state; and the style of all process shall be: "The State of Indiana."

D. Applicable Indiana State Statutes;

BURNS STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-5-1, ENGAGING IN PRACTICE BY PERSONS NOT ADMITTED--It is a Class B misdemeanor for a person to hold himself out as a practicing lawyer, to conduct the trial of a case in any court of this state, or to engage in the

business of a practicing lawyer, without first having been duly admitted as an attorney-at-law by the supreme court of this state. (As amended by Acts 1978, P.L.2, Sec. 3301.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-5-3, BURDEN OF PROOF--In all prosecutions under this chapter, it shall not be necessary for the state to prove that the defendant has not been so admitted as an attorney-at-law, but the burden of proving such admission shall be on the defendant. (As amended by Acts 1981, P.L. 272, Sec. 2.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-6-1, CALENDAR YEAR TERM--The term time and vacation time, as defined on December 31, 1967, of all courts of the state of Indiana are hereby abolished. The term of court for all courts shall be the calendar year and the judges of such courts shall have the same power to act in all matters and proceedings through the entire calendar year as such judges had prior to January 1, 1968 in term time. (As amended by Acts 1981, P.L. 272, SEC. 3.)

BURNS INDIANA STATUTES CODE EDITION, VOLUME 33, SECTION 33-1-13-1, DEFINITIONS--As used in this title:

"Crime" means a felony or a misdemeanor.

"Felony" means a violation of a statute for which a person might be imprisoned for more than one (1) year.

"Infraction" means a violation of a statute for which a person might be fined, but not imprisoned.

"Misdemeanor" means a violation of a statute for which a person might be imprisoned, but not for more than one (1) year.

"Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance. (As added by Acts 1977, P.L.313, SEC.1.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 33, SECTION 33-2-3-1, RULES AND REGULATIONS OF COURT--The Supreme Court of this state shall have exclusive jurisidiction to admit attorneys to practice law in all courts of the state and exclusive jurisidction to issue restraining orders and injunctions in all cases involving the unauthorized practice of the law under such rules and regulations as it may prescribe.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 34, SECTION 34-4-7-3, INDIRECT--DISOBEYING PROCESS.--Every person who shall be guilty of any willful disobedience of any process, or any order lawfully issued by any court of record, or by the proper officer thereof, under the authority of law, or the direction of such court after the same shall have been served upon him, shall be guilty of an indirect contempt of the court from which such process or order shall have issued. (Acts. 1879 (Spec. Sess.), ch. 35 §3, p. 112.).

BURNS INDIANA STATUTES, VOLUME 34, SECTION 34-4-7-6, PUNISHMENT--Punishments for contempt of court, under this act (34-4-7-10), may be by fine or imprisonment, or both, in the discretion of the court inflicting the same, but no

fine shall exceed the sum of five hundred dollars ($500), nor shall any imprisonment extend beyond the term of three (3) months. (Acts 1879 Spec. Sess.), ch. 35, §6, p. 112.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 34, SECTION 34-4-7-8, INDIRECT--RULE TO SHOW CAUSE--In all cases of indirect contempt, the person charged therewith shall be entitled, before answering thereto, or being punished therfor, to have served upon him a rule of the court, against which the alleged contempt may be committed; which said rule shall clearly and distinctly set forth the facts which are alleged to constitute such contempt; and shall specify the time and place of such facts with such reasonable certainty, as to inform the defendant of the nature and circumstances of the charge against him; and shall specify a time and place at which he is required to show cause, in said court, why he should not be attached and punished for such contempt, which time the court shall, on proper showing, extend so as to give the defendant a reasonable and just opportunity to purge himself of such contempt. No such rule as hereinabove provided for, shall ever issue until the facts, alleged therein to constitute such contempt, shall have been brought to the knowledge of the court by an information, fully verified by the oath of affirmation of some officer of the court, or other responsible person. (Acts 1879 (Spec. Sess.), ch. 35, para. 8, p. 112.)

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-34-1-2, CONTENTS; REQUISITES; FORM--

(a) The indictment or information shall be in writing and allege the commission of an offense by:

(1) stating the title of the action and the name of the court in which the indictment or information is filed;

(2) stating the name of the offense in the words of the statute or any other words conveying the same meaning;

(3) citing the statutory provision alleged to have been violated, except that any failure to include such a citation or any error in such a citation does not constitute grounds for reversal of a conviction where the defendant was not otherwise misled as to the nature of the charges against him;

* * * * *

(b) An indictment shall be signed by:

(1) the foreman or five (5) members of the grand jury; and

(2) the prosecuting attorney or his deputy.

An information shall be signed by the prosecuting attorney or his deputy and sworn to or affirmed by him or any other person.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-33-8-4, AMOUNT OF BAIL; ORDER; INDORSEMENT; FACTS TAKEN INTO ACCOUNT--

(a) The court shall order the amount in which a person charged by an

indictment or information is to be held to bail, and the clerk shall enter the order on the order book and indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff shall present the warrant to the judge of an appropriate court of criminal jurisdiction, and the judge shall indorse on the warrant the amount of bail.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-38-3-3, PERSONS CONVICTED OF MISDEMEANOR COMMITMENT; LOCAL FACILITIES--

(a) Except as provided by subsections (b) and (c), a person convicted of a misdemeanor may not be committed to the department of correction. If there are fewer than sixty (60) days remaining before his earliest possible release date. However, if the commissioner of the department of correction gives notice to a sheriff that he will pay a per diem under IC 11-8-3-3, then a person may not be committed to the department of correction unless there are more than one hundred eighty (180) days remaining before his earliest possible release date.

BURNS INDIANA STATUTES, CODE EDITION, VOLUME 35, SECTION 35-50-6-2, DISCHARGE FROM IMPRISONMENT FOR A MISDEMEANOR--A person imprisoned for a misdemeanor shall be discharged when he completes his fixed term of imprisonment, less the credit time he has earned with respect to that term. (As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.133.)

E. Applicable Rules of The Indiana Supreme Court;

Pursuant to the Constitutional Amendments of 1970 and statutes adopted implementing the same, the Supreme Court of Indiana on June 23, 1971, promulgated Admission and Discipline Rules #23 and #24 providing for the Disciplinary Commission, and setting forth the procedures and rules for the disciplining of attorneys and for the unauthorized practice of law. Pertinent provisions are set forth on Pages A-113 through A-119 of the Appendix.

VII

STATEMENT OF THE CASE

A

Statement of Facts Material to the Consideration of the Questions Presented

(1) Appellant Owen W. Crumpacker, age 72, a lawyer by profession, is and has been a citizen and resident of Hammond, Lake County, Indiana. For many years prior to October 20, 1978, he maintained law offices in Hammond. Prior to November 29, 1978 appellant was a member in good standing of the bars of the Supreme Court of the United States, the United States Court of Appeals for the 7th Circuit, the United States District Courts for the Northern and Southern Districts of Indiana, and the Indiana Supreme Court. He was, and had been since January 4, 1939, an active

trial lawyer.

(2) On April 4, 1984, appellant was a candidate for the office of United States Representative for the First Congressional District of Indiana in the primary election to be held on May 7, 1984. He had been the Republican Party's nominee for Congress in the November 7, 1978, general election.

(3) On September 17, 1974, disciplinary proceedings were filed in the Supreme Court of Indiana by Richard H. Grabham, now deceased, then Executive Secretary of the Indiana Supreme Court Disciplinary Commission. The proceedings were filed and prosecuted under the procedures adopted by the Indiana Supreme Court on June 23, 1971. (A & D Rule 23 is set forth, verbatim, in the Appendix at pages A120 through A133.) After a 31-day trial and on

November 9, 1976, the Hearing Officer, Judge Bruce W. Douglas of the Porter Superior Court, Valparaiso, Indiana, found in appellant's favor on each and every count, twenty (20) in number, set forth in the Amended Verified Complaint for Disciplinary Action. *n.2 (The Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer appear at pages A85 through A89 of the Appendix.) More than two years later and on November 29, 1978, a 27-page Disciplinary Action, purporting to permanently disbar appellant, was filed Per Curiam, in the office of the Clerk

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*n2: . . . . the hearing officer shall determine whether misconduct has been proven by a preponderance of the evidence and shall submit to the Supreme Court written findings of fact deduced by him from the evidence. The hearing officer may submit recommendations concerning the dispositon of the case with his findings of fact (A & D Rule 14 [d], App. A117)

of the Indiana Supreme Court.

In the Matter of Owen W. Crumpacker, Original Action Cause No. 974 S 187, 269 Ind.610, 383 N.E.2d 36(1978) cert. denied. 100 S.Ct. 481; 444 U.S. 979; 62L.Ed2d. 406. The Disciplinary Action was filed without notice and/or hearing. The 4,700 page transcript and the thousands of pages of exhibits, constituting the record before the Hearing Officer and filed in support of his findings were never transmitted to the Indiana Supreme Court by the Clerk, nor were they examined by the Indiana Supreme Court or any member thereof. There was no hearing "de novo" or of any kind. (See In the Matter of John Ruffalo, jr. (1968)390 U.S. 544, 549; 88 S.Ct. 1222 (1968)

(4) On November 16, 1980, Cecil Melvin, Disciplinary Commission investigator, who had been instrumental in procuring the charges filed in the Indiana Supreme Court on September 17, 1974, launched a secret investigation or inquiry in Hammond, Indiana, with reference to appellant's activities since his release from the Wesley Memorial Hospital in Chicago on January 12, 1979. (Appellant was in the LaPorte Hospital at LaPorte, Indiana, suffering from a cardiac infarction and stroke on November 29, 1978, when the Disciplinary Action was filed in the clerk's office in Indianapolis.)

(5) The same attorneys who had participated in the secret investigation during the Summer of 1974 assisted Cecil Melvin in procuring affidavits which were attached to and made a part of a

twenty-six (26) count Verified Information for Contempt and Petition for Order to Show Cause, which was filed in the Indiana Supreme Court over the signature of Sheldon A. Breskow, Executive Secretary of the Indiana Supreme Court Disciplinary Commission on January 23, 1981. Appellant's lawyer, John Lyons, who represnted appellant before the Hearing Officer in 1975, withdrew his appearance, with leave of court, on June 22, 1981, and appellant, over objection, was compelled to defend without counsel. Evidence was heard in adversary proceedings on June 29 and July 9, 16, and 21, 1981. On January 27, 1982, the Indiana Supreme Court adopted a 10 page Per Curiam decision, finding appellant guilty of both direct and indirect criminal contempt on all

counts and sentencing him to serve 90-days in the Department of Correction without benefit of the good time statutes. The ten-page decision entitled "Contempt Proceeding," was published on February 11, 1982. In The Matter of Owen W. Crumpacker, Cause No. 974 S 187; ___Ind.___; 431 N.E.2d 91(1982), appeal dismissed for want of substantial federal question on October 4, 1982, S.Ct. No. 82-4046 101 S.Ct. 25. The findings, judgment, and sentence were adopted in appellant's absence and without his being afforded an opportunity to argue the case prior to the decision in accordance with the principles laid down in Herring v. New York (1977) 95 S.Ct. 2550, 422 U.S. 852. Appellant had filed a timely written motion for oral argument.

(5) Appellant served and filed a

written motion to vacate and set aside the decision of Janury 27, 1982 (which he had not seen). It was denied without a hearing on February 5, 1982. (See App., A101) Appellant appeared in Indianapolis for sentencing on February 11, 1982, unaware that he had been previously convicted and sentenced in absentia. He appeared in response to notice received in the mail. On arrival at Indianapolis, he was served with an order of commitment and transported by the Sheriff of the Supreme Court and the Indiana State Police to the Department of Correction at Putnamville, Indiana, where he was issued prison garb, processed, and served the full 90-day prison term. Oral and written motions to be released on bail pending an appeal to the United States Supreme Court were

denied as was the motion for delay in the execution of the order of commitment. Necessarily, appellant did not have access to his papers and files which were locked up in his offices in Hammond approximately 200 miles away. Under prison rules, he was held virtually incommunicado. Costs of the prosecution in the amount of $11,399.03 were taxed against him by an ex-parte order signed by Chief Justice Richard M. Givan on July 18, 1982.

(6) Shortly after appellant's incarceration, the prison doctor recommended release of appellant for reasons of health and for treatment by his personal physician in Hammond. The superintendant of the prison instituted procedures for returning appellant to Hammond under a work-release program. In a letter under date of March 4, 1982,

to Paul Jenner, Prison Administrator, Indiana Supreme Court Chief Justice Richard M. Givan prevented appellant's release. (*n.3)

(7) On May 11, 1982, Appellant was released from the Department of Correction and returned to Hammond. Several weeks were required to locate papers and files and to reopen his

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*n.3: "You will note I.C. 35-50-6-1 specifically refers to "a person imprisoned for a felony . . ." is subject to the good time law and I.C. 35-50-6-2 states "a person imprisoned for a misdemeanor . . .". is subject ot the good time. Mr. Crumpacker has been convicted of neither a felony nor a misdemeanor but has been found guilty of contempt of court. Thus, he does not come under the good time statute on the pardon provision of the Indiana Supreme Constitution.

He is therefore to be incarcerated for the full ninety days stated in the commitment unless otherwise orderd bvy this court." Sincerely yours, Richard M. Givan, Chief Justice of Indiana" (See Appendix, pp. A107 and A108.

office at 6255 Hohman Avenue, Hammond, Indiana. The appeals in Federal Civil Rights actions and a case filed on February 8, 1982, under the Federal Civil Rights Act and Organized Crime Control Act, Owen W. Crumpacker vs. Donald H. Hunter, et al, U.S.D.C., N.D. Ind., Cause #H82-0337, were dismissed because of appellant's inability to have access to his case files and meet briefing schedules. Appellant's primary efforts prior to July 12th, 1982, was devoted to the preparation of his jurisdictional statement in his appeal from the findings and judgment of February 11, 1982.

(8) Appellant and his wife, Mary Eleanor N. Crumpacker, left on a vacation trip to Oregon on Saturday, June 18, 1983. Shortly after their departure and during their absence, Cecil Melvin, and another employee of the Disciplinary

Commission, conducted a secret investigation and/or inquiry into Appellant's activities. Under representation that they were emissaries of the Supreme Court of Indiana, they contacted residents of Hammond: James Siple, Jr., Mrs. Evelyn Siple, James Siple, Raymond A. Nieto, Marilyn H. Kortenhoven (a lawyer), Timothy Klein, Louis Barney; Carmen A. Fernandez (an attorney), Glen A Kupiers, and others unknown in East Chicago; Judge Nicholas Schiralli of Hobart; and various court clerks at Crown Point and adjacent counties who had received letters from Appellant requesting copies of documents, etc. These individuals were induced to sign affidavits as to the truth of allegations in a 10-page Verified Information for Contempt and

Order to Show Cause prepared by Sheldon A. Breskow, as Executive Secretary of the Disciplinary Commission. Several of the affidavits were sworn to on/or about July 12, 13, or 14, 1983 and others were sworn to on July 22nd, after appellant's return from a vacation in Oregon. Neither Sheldon A. Breskow, nor Cecil Melvin, were/or are authorized by law to conduct an investigation, procure affidavits, and prosecute alleged violations of the criminal laws. Sheldon A. Breskow and Cecil Melvin were at all times fully aware of the void character of the 27 page disciplinary action filed with the clerk of the Indiana Supreme Court without notice and/or hearing on November 29, 1978. Breskow and Melvin were fully aware of the fact that the prosecuting attorney of Lake County had (and has) sole and exclusive

jurisidiction to prosecute individuals in Lake County who might be guilty of practicing law without being admitted to the bar. None of the persons that were interviewed by Breskow or Melvin had made any complaints with reference to alleged violations of law and none of the persons interviewed were provided with copies of the 27-page Disciplinary Action which, according to the Breskow complaint, had been willfully and intentionally violated.

(9) On August 15, 1983, a Rule to Show Cause was issued over the signature of Chief Justice Richard M. Givan, returnable at Indianapolis in the chambers of the Indiana Supreme Court on October 4, 1983. Appellant was personally served with a copy of the Rule to Show Cause, together with a copy of the Verified Information for Contempt

and Petition for Order to Show Cause by a member of the state police from the Lowell barracks. Upon being served, appellant promptly prepared, served and filed a Verified Motion to Quash the Rule and Dismiss the Verified Petition for lack of jurisdiction in the Indiana Supreme Court over the person of appellant and the subject matter of the proceedings. Because of the rulings made by the Indiana Supreme Court during the hearings at Indianapolis, in June and July of 1981, appellant instituted habeas corpus proceedings in the United District Court for the Northern District of Indiana under Cause #Misc. 581. The Sheriff of the Supreme Court (Lombardo), Superintendent of the State Police, and Sheriff of Lake County were served with copies of the verified petition as were the individual members of the Indiana

Supreme Court who, on or about August 25, 1983, had unlawfully taken appellant in custody (constructive) through the issuance and service of the Rule To Show Cause. In addition, Appellant prepared and filed in the United States District Court under Cause #Misc. 588, a Federal Civil Rights Act Complaint predicated upon the provisions of 42 U.S.C. 1983; 42 U.S.C. 1985; 42 U.S.C. 1988. Chief Justice Givan, who had issued a rule to show cause on August 15, 1983, was served with notice and a Verified Application for a Temporary Restraining Order returnable November 7, 1983, or as soon thereafter as the appellant could be heard. Summonses were issued by the clerk and service made upon the defendants on Friday, October 28, 1983. Notwithstanding the fact that appellant's

motion to Quash the Rule To Show Cause and Dismiss the Verified Information for Contempt and Petition for Order To Show Cause had not been either heard, or ruled upon, an order setting the case for hearing at Indianapolis in November 15, 1983, at 10:30 a.m. was issued over the signature of Chief Justice Richard M. Givan on November 8th. Efforts to serve appellant in his office in Hammond on November 9th, 1983, were made by Captain Daryl Longfellow of the Lake County Police Department and Detective Pat King of the State Police. The summons and/or notice was issued at the instance of Sheldon A. Breskow, who was (and is) named as a party defendant in the habeas corpus and civil rights cases.

B

Stage in the Proceedings at Which The Questions were Raised And The Way In Which They Were Passed Upon By The Indiana Supreme Court

(1) Appellant filed a Verified Motion for Relief From and Reconsideration of the Disciplinary Action, either filed or permitted to be filed on November 29, 1978 for lack of notice and/or hearing (due process) on February 10, 1979. The motion was denied on April 12, 1979.

(2) Appellant's petition for a writ of certiorari seeking a review of the 27 page Disciplinary Action for want of due process and double jeopardy was filed in this court on September 9, 1979. It was denied on December 3, 1979. (444 U.S. 979, 100 S.Ct 481)

(3) On February 27, 1981, appellant filed his Motion to Quash the

Show Cause Order and dismiss the Verified Information, etc., filed on January 23, 1981, because, among other grounds, of the void character of the Disciplinary Action sought to be enforced in criminal contempt proceedings. An amended and supplemental Motion to Strike and Dismiss was filed on June 24, 1981. The questions were again presented to the Supreme Court of Indiana in appellant's 1st and 2nd paragraphs of return (June 30, 1981), 3rd paragraph of return (July 1, 1981), 4th paragraph of return (July 1, 1981), 5th paragraph of return (July 9, 1981), Motion to Vacate and Set Aside a "Per Curiam" Disciplinary Action filed in the Office of the Clerk on November 29, 1978, etc. (July 2, 1981). All of the motions were over-ruled and denied

from the bench (see transcipts of the hearings held on June 29, July 9, 16, 21st). The rulings were supplemented in the 10 page decision adopted internally on January 27, 1982 and filed of record on February 11th, 1982 and published officially in In the Matter of Owen W. Crumpacker, original cause #974 S 187, ___Ind.___; 481 N.E.2d 91(1982). Appeal dismissed for want of a substantial question. S.ct. No. 82-5046." (#n.4)

(4) Appellant was served with a Rule to Show Cause returnable October 4, 1983. The rule was issued over the signature of Chief Justice Richard M.

#n.4 -- "In the Motion to Dismiss or affirm the Disciplinary Commission argued that, under Indiana law, a finding of contempt is not a criminal conviction citing State v. Shumaker, 200 Ind. 716, 161 N.E. 408 (1923). The Indiana Attorney General argued exactly the opposite in defeating Judge William Bontragger's appeal from a criminal contempt conviction, Palmer vs. State (1981 ___Ind.___, 415 N.E. 2nd 709.

Givan on August 15, 1983. It was personally served upon appellant in his offices in Hammond on August 25, 1983. Appellant prepared, served, and filed a Verified Motion to Quash the Rule to Show Cause and to Dismiss the Second Verified Petition for Contempt and Petition for Order to Show Cause for lack of jurisdiction over the person of the appellant and subject matter of the proceedings. The motion was denied without a hearing after November 15, 1983, and after the Judge Givan had issued a bench warrant for appellant's arrest.

VIII

THE QUESTIONS ARE SUBSTANTIAL

A

The Conduct of the State Supreme Court in Organizing Itself Into a Trial Court for the Purpose of Instituting, Prosecuting, and Convicting Citizens of Crimes is a Matter of Great Concern to All of the Citizens of Indiana.

It will be observed that the Indiana Supreme Court is without constitutional or statutory authority to institute, prosecute, try and convict citizens of crimes.

Contrary to the opinion of Chief Justice Richard M. Givan in his letter of March 4, 1982 to Paul Jenner, Prison Adminstrator, (n. #3, p. 29, supra) and the opinions expressed by Sheldon A. Breskow in his Motion to Dismiss or Affirm, filed in Cause S.Ct #82-5046, criminal contempt, either direct or indirect, is a crime.

We quote from the opinion of Mr. Justice White in the case of Bloom v. Illinois, 391 US 194, 20 L Ed 2d 522, 88 S Ct 1477, (1968) at page 528 of the Lawyer's Edition:

> "(4) Criminal contempt is a crime in the ordinary sense; it is a violation of the law, a public wrong which is punishable by fine or imprisonment or both. In the words of Mr. Justice Holmes: "These contempts are infractions of the law, visited with punishment as such. If such acts are not criminal, we are in error as to the most fundamental characteristic of crimes as that word has been understood in English speech." Gompers v. United States, 223 US 604, 610, 58 L Ed 2d 1115, 1120, 34 S Ct 693 (1914).

As stated further in Bloom v. Illinois, supra, at page 529, of the Lawyer's edition:

> "(5) The court has long recognized the potential for abuse in exercising the summary power to imprison for contempt -- it is an "arbitrary" power which is "liable to abuse." Ex parte Terry, 128 US 289, 313, 32 L Ed 405, 412, 9 S Ct 77 (1888). "[I]ts exercise is a delicate one and care is needed to avoid arbitrary or oppressive

conclusions." Cook v. United States, 267 US 517, 539, 69 L Ed 767, 775, 45 S Ct 390 (1925).

Again, as stated at page 532:

> "Our experience teaches that convictions for criminal contempt not infrequently resulting in extremely serious penalities, (see United States v. Barnett, 376 US 681, 751, (Goldberg, J., dissenting), 12 L Ed 2d 23, 64, 84 S Ct 984, are indistinguishable from those obtained under ordinary criminal laws. If the right to jury trial is a fundamental matter in other criminal cases, which we think it is, it must also be extended to criminal contempt cases."

In 1970, the Indiana Constitution was amended by removing all original jurisidiction from the Supreme Court except in limited fields including "discipline or disbarment of those admitted to practice law." ART 7, Section 7, Judicial -- Jurisdiction of Supreme Court. (Page 13 supra) The legislature implemented the constitution by authorizing the Supreme Court to adopt rules of procedure within the scope

of its exclusive jurisdiction. The Supreme Court of Indiana adopted Admission and Disciplinary Rules 23, 24, and 25 pursuant to constitutional and statutory authority. The rules became effective on June 23, 1971. (A & D Rule 23 is set forth at pp. A-113 through A-119 of the Appendix.) A & D Rules 24 and 25 refer to actions to restrain the unauthorized practice of law and disciplining of judges.

An examination of A & D Rule 23 discloses that the Indiana Supreme Court Disciplinary Commission is wholly without authority to conduct a secret investigation, interview witnesses, and procure affidavits for the purpose of filing and prosecuting indirect criminal contempt proceedings for alleged violations of the criminal laws. The Constitution of Indiana, Article VII,

§ 18, Criminal Prosecutions, provides: "all criminal prosecutions shall be carried on in the same and by the authority of the State; and the style of all process shall be" 'the State of Indiana.'" (see page 13 supra)

In State v. Youngblood (1947) ___ Ind.___; 83 N.E. 2d 174, 180, the court held that"[a] criminal contempt must be filed by the state and prosecuted by the prosecuting attorney."

The legislature has defined "Crimes" as meaning a felony or a misdemeanor. Misdemeanors, felonies, and infractions are defined by the legislature. Burns Indiana Statutes, Code Edition, Vol. 33, §33-1-13-1. (see pages 14 and 15, supra.)

In Indiana as well as elsewhere, the power and authority to define crimes and provide for the authority and means for their prosecution is vested in the

legislative branch of the government under the doctrine of separation of powers. The Indiana legislature has, properly, defined the practice of law without a license as a Class B misdemeanor putting the burden of proof upon the defendant to prove his admission as an attorney at law by the Supreme Court of Indiana. (See Burns' Indiana Statutes, Code Edition, Vol. 33, §§33-1-5-1 and 33-1-5-3, pp. 13 and 14, supra.)

The legislature has, likewise, defined criminal contempt as constituting, among other things, the willful violation of a valid court order. The procedure for prosecuting acts of contempt is clearly outlined by statute as is the penalty. (See Indiana Statutes, pages 15 and 16 supra)

The Supreme Court of Indiana, in the

case of State ex rel. Indianapolis Bar Association v. Fletcher Trust Company, (1936), 211 Ind. 27; 5 NE2d 538, determined that anyone charged with practicing law without a license has a right to be tried in the county of his residence and that the criminal procedures established by the legislature are exclusive. The Amendments to the Constitution of Indiana did not change the law. In State ex rel. Black v. Burch, 80 NE2d 294; 226 Ind. 445, 457, the court stated:

> "The powers of government are divided into three separate departments; the Legislative, the Executive including the Administrative, and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another except as in the Constitution expressly provided."

It has been uniformly held by Federal and State courts that, as a

matter of constitutional law, any powers exercised by the courts beyond their constitutional and legislative authority are coram non judice and void.

By what right does the Supreme Court, its agents, and employees have to ignore the procedures established by the legislature governing the investigation into matters of violation of criminal laws and the responsibility of the prosecuting attorney to file and prosecute information and indictments. (see Burns Vol. 34, 34-4-7-8 and Vol. 35, sections 35-14-1-2 and 35-33-8-4, pages 16 and 17, supra.)

B

The Procedures Adopted by the Indiana Supreme Court in Arresting a Citizen on his Private Premises, Under a Bench Warrant Issued By the Chief Justice of the State Four Months Previously, Taking Him to the State Capitol 180 Miles Away, Trying and Convicting Him Without Evidence, Without Affording Him the Opportunity to Prepare a Defense, and Without Charges Having Been Filed Presents a Substantial Question.

The central concern of the IV Amendment is to protect liberty and privacy from arbitrary and oppressive interferences by government officials. Comara v. Municipal Court, 387 US 523, 534- 535 18 L.Ed 2d 930; 939; 87 S.Ct. 1727 (1967). This Court has held that judges are not above the law regardless of the common law doctrine of immunity. In Supreme court of Virginia, et al., v. Consumers Union of the United States, et al., 466 US 719, 64 LEd 2d 641, 100 S Ct 1967 (1980) the Court held that the individual members of the Supreme Court

of Virginia were subject to injunctive and declaratory orders in a suit under 42 USCS § 1983. In the recent case of Pulliam, Magistrate for the County of Culpeper, Virginia v. Allen et al., 104 S.Ct. 1970; 80 L.Ed.2d 565; 52 U.S.L. W. 4525, the Court has recognized the right of individual citizens to challenge the constitutionality of practices resulting in their imprisonment in violation of their constitutional rights. The rule of comity between the highest court in Indiana and the United States Supreme Court should not be construed to permit a practice of summary judgment and punishment without charges having been filed and without affording the accused the protection afforded under the V, VI, and XIV Amendments to the Constitution.

As soon as practicable, after

having been served with a Rule to Show Cause on August 25, 1983, and because of his experiences in 1981 and 1982, appellant instituted Habeas Corpus proceedings under 28 USC 2254 in the United States District Court for the Northern District of Indiana, Hammond Division. Owen W. Crumpacker v. Paul Lombardo, both individually and as Sheriff of the Indiana Supreme Court, et al., Misc. Cause No. 581. The members of the Indiana Surpeme Court were named as defendants and were served with notice and a verified application for injunctive relief. When the Indiana Supreme Court refused to either rule upon or grant a hearing on appellant's Motion to Quash the Rule to Show Cause and Dismiss the Verified Information, etc., appellant filed an action in the U.S. District Court, Hammond Division under the Federal Civil Rights Act and

the civil action provision of the Organized Crime Control Act. (See page 10 supra)
Owen W. Crumpacker v. Donald H. Hunter, et al., USDC, Hammond, Civil No. Misc. 588. Summonses were issued on October 28, 1983, and Chief Justice Richard M. Givan, who had issued the Rule to Show Cause and had signed the commitment order on February 11, 1982, was served with notice and application for a temporary restraining order returnable November 7, 1983, or as soon thereafter as the appellant, Owen Crumpacker, could be heard. The Lake County Sheriff was named as a defendant and served with the process prior to November 9, 1983, when Deputy Sheriff Daryl Longfellow and a detective from the State Police Post at Lowell, Indiana, made an effort to serve a notice and or order to appear at a hearing rescheduled for November 15, 1983.

Appellant is entitled to protection and relief under the precedents of this Court. Mitchum v. Foster, 407 US 225, 240; 92 S.Ct. 2151, 2161, 32 L.Ed.2d 705 (1972); Ex parte Virginia, 100 US 339, 25 L.Ed. 676 (1979); and Pulliam, Magistrate for the county of Culpeper, Virginia v. Allen, et al., supra.

C

The Unprecedented Conduct of the Supreme Court of Indiana in Prosecuting Appellant Demands an Investigation into the Void Character of the 27-Page Disciplinary Action Filed on November 29, 1978, Without Notice and/or Hearing And in Violation of the Procedural Due Process Clauses of the United States and Indiana Constitutions.

The Indiana Supreme Court, acting wholly without jurisdiction, has undertaken to "validate" a void Disciplinary Action by prosecuting appellant for indirect criminal contempt. In this manner, and on at least two occasions, the Indiana Supreme Court has attempted to make a judicial determination that the void order, somehow, has become valid. Appellant is jailed to force an admission of the validity of a void order.

It will be observed that Saul I, Ruman's Petition for Review was never granted. Neither Saul I. Ruman nor the

Indiana Supreme Court Disciplinary Commission, through Sheldon A. Breskow, made any effort to comply with the procedures set forth in A & D Rule 23. In no recorded case has the Indiana Sureme Court (or any Supreme Court) undertaken to completely ignore the findings of the Hearing Officer, the record, and the necessity for notice and hearing.

It is apparent on the face of the record that gross injustice has been perpetrated on appellant. Much more than the tragedy that has been inflicted upon appellant and his family is involved in this appeal:

> "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." Wisconsin v. Constantineau, 400 US 433, 27 L.Ed. 2d 515, 91 S.Ct. 507 (1971).

* * * * * * *

"The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardship of a criminal conviction, is a principle basic in our society." Anti-Fascist Committee v. McGrath, 341 US 123, 168; 95 L.Ed. 2d 817; 71 S.Ct. 624.

* * * * * * *

"We have repeatedly ruled that the procedural guarantees of the Fourteenth Amendment apply whenever the state seeks to remove or significantly alter that protected status." Paul v. Edward Charles Davis III, 424 US 683, 711; 47 L.Ed. 2d 405; 96 S. Ct. 1155, 1165.

D

The Maintenance of the Integrity of the Supreme Court of Indiana, the United States District Court for the Northern District of Indiana, and the United States Court of Appeals for the Seventh Circuit as Important Public Institutions Presents Substantial Questions For Invoking the Jurisdiction of the United States Supreme Court.

Since the adoption of the amendments to the Indiana Constitution in 1970, the Indiana Supreme Court has been exercising

unprecedented powers over the legal profession in Indiana as well as the nisi prius judges, all of whom are subject to discipline and removal by the Indiana Supreme Court. The Judicial Qualifications Commission, chaired by the Chief Justice of Indiana, screens and nominates replacements on the Court of Appeals and Indiana Supreme Court. One man, Breskow, under A & D Rule 23, determines what grievances will be processed beyond the administrative level and which grievances will be determined to be insubstantial.

It is significant that both Breskow and the Indiana Supreme Court expouse the concept that contempt of court is not a criminal offense within the meaning of the Constitution of Indiana, the statutory enactments, and the decisions of the United States Supreme Court.

They base their opinions on the Supreme Court decision of State v. Shumaker (1928), 200 Ind. 623; 164 NE 408. This decision, a controversial one, was a political decision growing out of the prohibition era and the activities of the Anti-Saloon League. The majority of the court was dominated by the influence of the Ku Klux Klan which controlled the Governor's office and the Statehouse.

The dissenting opinion in State v. Shumaker speaks out most eloquently on the need for noting jurisidiction in this case:

> "The power of the judiciary rests upon the faith of the people in its integrity and intelligence. Take away this faith, and the moral influence of the courts is gone and the respect for law is destroyed. Other departments of the government may outlive unjust criticism and may still render service to its people, even when unfairly assailed, but when confidence in the courts is gone, respect for the

law itself will speedily disappear, and society will become the prey of fraud, violence, and crime." (200 Ind. 623 at page 643)

CONCLUSION

For these reasons, this Court should note probable jurisdiction of this appeal.

Respectfully submitted,

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